

GARY SMITH SR.,)
)
Plaintiff,)
)
v.) No. 4:07CV01038 ERW
)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)

This matter is before the Court for review of plaintiff's amended complaint pursuant to 28 U.S.C. § 1915(e). On June 5, 2007, the Court reviewed plaintiff's original complaint and found that plaintiff had not sufficiently shown that this Court has jurisdiction to hear his social security appeal because he had not stated the date on which he received notice of the decision of the Appeals Council. In the amended complaint, plaintiff states that the Appeals Council issued its decision in March 2007, but the amended complaint is silent as to the exact date in March. Additionally, plaintiff attached the decision of the Appeals Council to his original complaint, but the date has been redacted from each page of the document.

There is a sixty-day limitations period from the date plaintiff received notice of the decision of the Appeals Council for plaintiff to file this action. E.g., Bess v.

Barnhart, 337 F.3d 988, 989 (8th Cir. 2003). Plaintiff filed this action on May 29, 2007. As a result, it is not enough for plaintiff to plead that the decision of the Appeals Council was issued sometime in March 2007. It is crucial that plaintiff state the exact date of the decision of the Appeals Council for the Court to determine whether it has jurisdiction over this action.

To determine whether the Court has jurisdiction over this case, the Court will order plaintiff to supplement his amended complaint by stating, in writing and no later than 5 days from the date of this Order, the exact date on which the Appeals Council issued its decision. Additionally, plaintiff shall submit a copy of the decision of the Appeals Council that has not been redacted or altered in any way. Failure to comply with this Order shall result in the dismissal of this case.

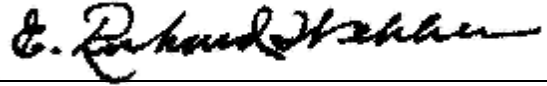
Accordingly,

IT IS HEREBY ORDERED that plaintiff shall supplement his amended complaint by stating, in writing and **no later than 5 days from the date of this Order**, the exact date on which the Appeals Council issued its decision

IT IS FURTHER ORDERED that plaintiff shall submit a copy of the decision of the Appeals Council that has not been redacted or altered in any way **no later than 5 days from the date of this Order**.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order,
this case shall be **DISMISSED**.

So Ordered this 26th Day of June, 2007.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE